

- 3. Social Security number;
- 4. Such wage information as the Division requires to determine eligibility for benefits, including sick pay, vacation, or other paid time off provided by the employer during the period of FLI leave; and
- 5. The name, address, and Division identity number of the employer.

12:21-3.10 Intermittent leave

(a) A covered individual shall [not] be eligible for family leave insurance benefits where the covered individual seeks to take intermittent family leave for the purpose of bonding with a newborn or newly adopted child, [except that where both the covered individual and the employer agree that the covered individual will be permitted to take family leave for the purpose of bonding with a newborn or newly adopted child in non-consecutive periods of seven days or more, family leave insurance benefits shall be payable for those periods of family leave] including a child who becomes the child of a parent pursuant to a valid written agreement between the parent and a gestational carrier, or placement of a child in foster care.

1. Prior to taking the leave, an employee shall provide the employer with prior notice not less than 15 days before the first day on which benefits are paid for the intermittent leave, unless an emergency or other unforeseen circumstance precludes prior notice; and the covered individual makes a reasonable effort to schedule the leave, so as not to unduly disrupt the employer's operations; and, if possible, prior to the commencement of the leave, provides the employer with a regular schedule of the requested leave.

(b)-(c) (No change.)

(d) A covered individual shall be eligible for FLI benefits where the covered individual seeks to take intermittent family leave for the purpose of engaging in activities for which unpaid leave may be taken pursuant to section 3 of the New Jersey Security and Financial Empowerment Act, P.L. 2013, c. 82 (codified at N.J.S.A. 34:11C-3), on the individual's own behalf, if the individual is a victim of an incident of domestic violence or a sexually violent offense, or to assist a family member of the individual who has been a victim of an incident of domestic violence or a sexually violent offense.

1. Prior to taking the leave, an employee shall, if the necessity for the leave is foreseeable, and unless an emergency or other unforeseen circumstances precludes prior notice, provide the employer as far in advance as is reasonable and practical, with written notice of the need for the leave.

(e) If a covered individual seeks to take intermittent family leave for the purpose described at (d) above, the Division may require the individual to submit a certification that meets the standards specified by subsection c. of section 3 at P.L. 2013, c. 82 (N.J.S.A. 34:11C-3), whether or not the individual's employer has requested such documentation.

Alexander C. Owen
 Administrative Practice Officer
 New Jersey Department of Transportation
 PO Box 600
 Trenton, NJ 08625-0600
 Fax: (609) 963-1909

Submit electronically at njdotRules@dot.state.nj.us.

This rule may be viewed or downloaded from the Department's website at <http://www.state.nj.us/transportation/about/rules/proposals.shtml>.

The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:14B-5.1.c, the rules at N.J.A.C. 16:25 were scheduled to expire February 1, 2023. As the Department of Transportation (Department) has filed this notice prior to that date, pursuant to N.J.S.A. 52:14B-5.1.c(2), the expiration date was extended 180 days to July 31, 2023. N.J.A.C. 16:25 outlines the standards and requirements for utility accommodation on Department rights-of-way.

N.J.A.C. 16:25 governs utilities, including pipelines, overhead power and communications lines, and underground electric power and communications lines. The chapter contains standards and requirements for utility accommodation on Department rights-of-way. The State of New Jersey is heavily industrialized, densely populated, and described as a "corridor State." The State strives to provide a safe and modern highway system for its citizens, visitors, and travelers, while at the same time, ensuring that safe and adequate utility services are provided to its citizens and industries. In addition to carrying out their own improvement and expansion programs to meet ever-increasing customer demands, utilities must also modify their facilities to conform to highway construction projects. Rarely can either the Department or the utility companies construct or alter their respective facilities without somehow impacting the other. Through this chapter on utility accommodation, the Department established rules to control and coordinate the use of highway rights-of-way and the procedures to be used in achieving this control.

The Department has reviewed these rules and determined that they are necessary, reasonable, and proper for the purposes for which they were originally promulgated. Proposed amendments are necessary in order to update telephone numbers, addresses, and publication dates of standards. The Department is proposing to readopt the rules with amendments as set forth below.

As the Department has provided a 60-day comment period for this notice of proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

The chapter is summarized as follows:

Subchapter 1 provides the purpose, scope, standards, and contact information.

Subchapter 2 provides the definitions found in this chapter.

Subchapter 3 provides the highway occupancy permits for the purpose of general requirements.

Subchapter 4 provides the reimbursement for utility relocations, adjustments, and removal for purposes of public utilities and cable television companies.

Subchapter 5 provides the special permits and agreements for purposes of utilities or entities not provided for at Subchapter 4.

Subchapter 6 provides the scenic considerations for purposes of utility placement.

Subchapter 7 provides facility design and location for the purpose of a utility standard.

Subchapter 8 provides the pipeline for purposes of pipeline installment standards.

Subchapter 9 provides the underground electrical power and communication lines for the purpose of installment standards.

Subchapter 10 provides the overhead power and communication lines for the purpose of installment standards.

Subchapter 11 provides the installation on highway structures for the purpose of installment standards.

Subchapter 12 provides the utility facilities occupying limited access highway for the purpose of extreme cases of a need by a public utility unable to adhere to general installation standards.

TRANSPORTATION

(a)

CAPITAL PROGRAM MANAGEMENT

Utility Accommodation

Proposed Readoption with Amendments: N.J.A.C. 16:25

Authorized By: Diane Gutierrez-Scaccetti, Commissioner, Department of Transportation.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:7-19, 40:62-35, 40:62-134, 48:2-30 et seq., 48:5A-1, 48:7-1 et seq., 48:7-2 et seq., 48:9-17, 48:25.4, 48:13-10, 48:17-8, 48:17-16, and 48:19-17.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2023-017.

Submit written comments by May 5, 2023, to:

Subchapter 13 provides the waivers for the purpose of when a reduction, modification, or elimination of requirements are proposed.

Subchapter 14 provides the severability and indemnification for the purpose of a utility hold harmless for the State of New Jersey and the Department.

The proposed amendments are as follows:

N.J.A.C. 16:25-1.3(c) is proposed for amendment to update telephone numbers and dates of publication standards. N.J.A.C. 16:25-1.3(d)1, 3 and 6 are proposed for amendment to update dates of publication standards.

N.J.A.C. 16:25-1.4 is proposed for amendment to update telephone numbers and addresses.

N.J.A.C. 16:25-7.3(f) is proposed for amendment to correct a publication title name.

Social Impact

The rules proposed for readoption with amendments regulate the location, design, and method of installation and maintenance of utilities on State highway rights-of-way. The rules proposed for readoption with amendments will have a positive social impact in that they maintain public safety along the highways by ensuring that proper procedures are used when utilities are installed along State highways in New Jersey. The rules proposed for readoption with amendments also have a positive social impact in that they facilitate the installation and maintenance of critical public utilities, which are essential for the social and economic well-being of New Jersey's residents and businesses.

Economic Impact

The rules proposed for readoption with amendments will continue to have a beneficial economic impact on the public as they allow the safe and efficient movement of people and goods on the State highway system.

The Department and the utilities both incur direct and indirect costs for personnel, mileage, and equipment requirements associated with the installation, maintenance, and relocation of utilities. Utility companies also incur costs in obtaining applicable permits and in the preparation and implementation of the traffic control plans required at N.J.A.C. 16:41, Highway Occupancy Permits, which refers to N.J.A.C. 16:25, Utility Accommodation, for information regarding the methods for installing and relocating utilities. They are also responsible for all costs of restoration and/or repairs to public highway property disturbed or damaged as a result of utility occupancy of highway rights-of-way property. These costs vary, depending upon the type of work done and the site conditions. Each site is unique, so there is no average or range that meaningfully reflects these costs. The applicable fees include those for applications and permits as required at N.J.A.C. 16:41. The cost of repairs varies based upon the amount of material required to restore the disturbed or damaged property. Utility companies are required pursuant to N.J.S.A. 48:2-80 et seq., to provide location verification for their facilities and are responsible for the costs associated with providing location verification for their facilities within the State's right-of-way for proposed Department projects. Utilities will not be reimbursed for providing the Department or its consultants information on all tenants jointly occupying their utility facility. As the utility company maintains that information for its own purposes, the Department does not consider providing that information as a reimbursable expense.

Federal Standards Statement

A Federal standards analysis pursuant to P.L. 1995, c. 65, is not required because the Department has determined that the requirements of this rulemaking are either dictated by State statutes or are the same as Federal requirements and standards set forth at 49 CFR Parts 192, 193, and 195 and 23 CFR Part 645, Subparts A and B.

Jobs Impact

The rules proposed for readoption with amendments will have no effect on jobs in New Jersey, as the Department does not expect that the rules proposed for readoption with amendments will result in the generation or loss of jobs.

Agriculture Industry Impact

The rules proposed for readoption with amendments will have no impact on the agriculture industry in New Jersey. This chapter is not intended to regulate farming, crop, or animal production.

Regulatory Flexibility Analysis

As the rules proposed for readoption with amendments do not impose any reporting, recordkeeping, or compliance requirements on businesses of any size, the Department has made no provision for lesser or differing standards for small businesses.

Some applicants may be small businesses, as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Permit applicants are required to provide specified information with respect to each type of permit application and are required to pay applicable fees. The Department has made no provision for lesser or differing standards for small businesses because it has determined that the rules proposed for readoption with amendments, are the minimum necessary to preserve safe and efficient mobility on the State highways. The Department does not believe that any utility companies meet the definition of small business.

Permit applicants may need to retain the services of professionals, such as licensed professional engineers, planners, attorneys, and surveyors, to assist in the preparation of applications and plans, to conduct traffic studies, and in the processing of appeals. The actual costs of compliance with permit requirements cannot be estimated and will vary for each applicant, based upon the scope of the improvement or development being planned along the State highway.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments govern utilities, including pipelines, overhead power and communications lines, and underground electric power and communications lines. The chapter contains standards and requirements for utility accommodation on Department rights-of-way. The current rules have had no impact on the affordability of housing in New Jersey and the Department believes that it is extremely unlikely that the rules proposed for readoption with amendments would bring about a change in the average costs associated with housing.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments will have no impact on smart growth. The Department believes that it is extremely unlikely that the rules proposed for readoption with amendments would bring about a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan because the rules proposed for readoption with amendments outline the standards and procedures applicable to Utility Accommodation on State highway rights-of-way under the jurisdiction or control of the New Jersey Department of Transportation.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The rules proposed for readoption with amendments govern utilities, including pipelines, overhead power and communications lines, and underground electric power and communications lines. The chapter contains standards and requirements for utility accommodation on Department rights-of-way. The rules proposed for readoption with amendments have no impact on Racial and Ethnic Community Criminal Justice and Public Safety in New Jersey and the Department believes that it is extremely unlikely that the rules proposed for readoption with amendments will have any impact on pretrial detention, sentencing, probation, or parole policies concerning adults or juveniles in the State. Therefore, no further analysis is required.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 16:25.

Full text of the proposed amendments are follows (additions indicated in boldface thus; deletions indicated in brackets [thus]):

SUBCHAPTER 1. PURPOSE, SCOPE, STANDARDS, AND CONTACT INFORMATION

16:25-1.3 Standards

(a)-(b) (No change.)

(c) The minimum applicable standards set forth in the Department's Design Standards shall apply in all instances where any such applicable highway specifications are more restrictive or require greater safety factors or higher standards of construction, materials, or workmanship

than the applicable national or industry standard code. The Design Standards, which are incorporated herein by reference, as amended and supplemented, are as follows:

1. The New Jersey Department of Transportation Roadway Design Manual, [2008] 2015 edition, available from the Department's Engineering Documents Unit at [609-530-5587] (609) 963-1465 or on the Department's website at: www.nj.gov/transportation/eng/documents/RDM/;

2. The New Jersey Department of Transportation Bridges and Structures Design Manual, [5th] 6th edition, available from the Department's Engineering Documents Unit at [609-530-5587] (609) 963-1465 or on the Department's website at: www.nj.gov/transportation/eng/documents/BSDM/;

3. The New Jersey Department of Transportation Standard Specifications for Road and Bridge Construction, [2007] 2019 edition, available from the Department's Engineering Documents Unit at [609-530-5587] (609) 963-1465 or on the Department's website at: www.nj.gov/transportation/eng/;

4. The New Jersey Department of Transportation Sample Plans, [2007] 2016, available from the Department's Engineering Documents Unit at [609-530-5587] (609) 963-1465 or on the Department's website at: www.nj.gov/transportation/eng/;

5. The New Jersey Department of Transportation Standard Roadway Construction/Traffic Control/Bridge Construction Details, [2007] 2016, available from the Department's Engineering Documents Unit at [609-530-5587] (609) 963-1465 or on the Department's website at: www.nj.gov/transportation/eng/;

6. The New Jersey Department of Transportation Standard Electrical Details, 2007 edition, available from the Department's Engineering Documents Unit at [609-530-5587] (609) 963-1465 or on the Department's website at: www.nj.gov/transportation/eng/elec/; and

7. The New Jersey Department of Transportation's Soil Erosion and Sediment Control Standards, 2008 edition, as required under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., available from the Department's Engineering Documents Unit at [609-530-5587] (609) 963-1465 or on the Department's website at www.nj.gov/transportation/eng/documents/SRSC/.

(d) Additional governmental and industry standards that are applicable, which are incorporated herein by reference, as amended and supplemented, are as follows:

1. A Policy on Geometric Design of Highways and Streets, [6th] 7th edition, available from the American Association of State Highway and

Transportation Officials (AASHTO), Suite 249, 444 North Capitol St., NW, Washington, DC 20001, or on the AASHTO website at: <https://bookstore.transportation.org/>;

2. (No change.)

3. A Policy on Design Standards--Interstate System, [2005] 2016 edition, available from the American Association of State Highway and Transportation Officials (AASHTO), Suite 249, 444 North Capitol St., NW, Washington, DC 20001, or on the AASHTO website at: <https://bookstore.transportation.org/>;

4.-5. (No change.)

6. The National Electrical Safety Code (NESC), [2007] 2023 edition, available from IEEE Publications Office, 10662 Los Vaqueros Circle, P.O. Box 3014, Los Alamitos, CA 90720-1264, or on the IEEE website at: <http://standards.ieee.org/nesc/nescproducts.html>;

7.-10. (No change.)

16:25-1.4 Contact information

All submissions shall be sent to the following address as required:

Office of Utility Management
 New Jersey Department of Transportation
 PO Box 600
 E&O Bldg., 7th Floor
 Trenton, NJ 08625
 [(609) 530-5367] (609) 963-1821
 or
 Operations Permit Office
 New Jersey Department of Transportation
 PO Box 600
 E&O Bldg., 4th Floor
 Trenton, NJ 08625
 [(732) 625-4330] (609) 963-1487

SUBCHAPTER 7. FACILITY DESIGN AND LOCATION

16:25-7.3 Safety, construction, and highway restoration provisions

(a)-(e) (No change.)

(f) Restoration of flexible and composite pavement by the utility company shall be in accordance with the Department's standard details for Utility Trench [Restoration] Construction found in the New Jersey Department of Transportation Standard Roadway Construction/Traffic Control/Bridge Construction Details.

(g)-(l) (No change.)